

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION

CAPITOL RECORDS, INC., a Delaware Corporation; WARNER BROS. RECORDS, INC., a Delaware Corporation; ARISTA RECORDS, INC., a Delaware Corporation; BMG MUSIC, a New York general partnership; SONY MUSIC ENTERTAINMENT, INC., a Delaware Corporation; and UMG RECORDINGS, INC., a Delaware corporation,

Plaintiffs,

CIVIL ACTION No. 04-CV-40168 FDS

v.

JIM FITZPATRICK,

Defendant.

**PLAINTIFFS' EMERGENCY MOTION
TO EXTEND THE TIME FOR PLAINTIFFS TO OPPOSE DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT
AND TO EXTEND THE TIME TO FILE THEIR OWN DISPOSITIVE MOTION**

In advance of Defendant's rescheduled June 29, 2005 deposition, Defendant has filed a motion for summary judgment. Without this Court's intervention, Plaintiffs will be required to respond to that motion on June 28, and will therefore not have the benefit of Mr. Fitzpatrick's testimony in composing their opposition. To avoid such a nonsensical and inequitable result, Plaintiffs respectfully request an extension of seventeen (17) days, until July 15, 2005 to file their opposition to Defendant's Motion for Summary Judgment after Mr. Fitzpatrick's deposition.

In the interest of judicial economy, Plaintiffs also respectfully request a parallel extension of the deadline for filing their own dispositive motion for fifteen (15) additional days, until July 15th, to permit Plaintiffs to utilize Mr. Fitzpatrick's testimony in that motion.

In support of this motion, Plaintiffs submit the attached Memorandum of Law and supporting Affidavit of Colin J. Zick.

Respectfully submitted,

CAPITOL RECORDS, INC., WARNER
BROS. RECORDS, INC., ARISTA
RECORDS, INC., BMG MUSIC, SONY
MUSIC ENTERTAINMENT, INC., and
UMG RECORDINGS, INC.,

By their attorneys,

/s/ Gabriel M. Helmer

Colin J. Zick (BBO #556538)
Gabriel M. Helmer (BBO #652640)
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Dated: June 21, 2005

ATTORNEYS FOR PLAINTIFFS

CERTIFICATION OF COUNSEL

Pursuant to Local Rule 7.1(A)(2), the undersigned certifies that on June 21, 2005 counsel for the Plaintiffs attempted to confer with Michael T. Gaffney, Esquire, counsel for Jim Fitzpatrick, in a good faith attempt to resolve the issues raised in this motion and was unable to resolve this matter.

/s/ Gabriel M. Helmer

Gabriel M. Helmer

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of June, 2005, I caused a true copy of the above document to be served upon Michael T. Gaffney, Esquire, counsel for Jim Fitzpatrick, by mail.

/s/ Gabriel M. Helmer

Gabriel M. Helmer